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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Heinz F. Thummel

Assignee: Laser Devices, Inc.

Title: DUAL BEAM LASER MODULE

Serial No.: 10/802,115 Filed: March 13, 2004

Examiner: Stephen Johnson Group Art Unit: 3641

Docket No.: LDI006

Monterey, CA
December 14, 2007

Mail Stop Petition
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(b)

Sir:

Petitioner respectfully submits the following petition to revive the above named Application under 37 C.F.R. § 1.137(b). Petitioner respectfully requests that the following petition be granted based on the statements and facts discussed below.

Summary

In accordance with 37 C.F.R. § 1.137 (b)(3), Petitioner and Petitioner's Attorney state that the entire delay in filing the required reply to the Official Action from the due date for the required reply until the filing date of this grantable Petition pursuant to 37 C.F.R. § 1.137(b), was unintentional. In support of this statement, Petitioner

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has supplied the detailed discussion below in accordance with MPEP 711.03(c) (D) at page 700-213.

In accordance with 37 C.F.R. § 1.137(b)(2), the Commissioner is authorized to charge the appropriate fee under 37 C.F.R. § 1.137(b)(2), and as set forth in 37 C.F.R. 1.17(m), to Petitioner's Attorney's deposit account number 50-0553.

As shown below, Petitioner has met all the requirements set forth in 37 C.F.R. § 1.137(b) for reviving the above named Application that was unintentionally abandoned. Therefore, Petitioner respectfully requests: that the petition under 37 C.F.R. § 1.137(b) be granted; that the above named Application be revived; that the Amendment in response to the Official Action of November 14, 2006, co-filed herewith, be entered; and that Examination of the above named Application be resumed.

Detailed Discussion

The above named Application was initially filed in the name of the inventor above, and for the benefit of the assignee of entire interest, Laser Devices Inc., on March 13, 2004 by Previous Counsel for Petitioner, Patrick King of The Law Offices of Patrick T. King, herein referred to as "Previous Counsel".

An Official Action was issued on November 14, 2006. An undated portion of the November 14, 2006 Official Action and a draft response to the November 14, 2006 Official Action were forwarded to Petitioner on March 14, 2007 by Previous Counsel. On or about March 14, 2007 the draft response to the November 14, 2006 Official Action was approved by Petitioner, and Previous Counsel was instructed by Petitioner to file the response to the November 14, 2006

Official Action. Having so instructed Previous Counsel, Petitioner assumed the response to the November 14, 2006 Official Action was filed and Previous Counsel was paid for his services.

Beginning in mid-2007 Petitioner attempted to contact Previous Counsel on numerous occasions to determine the status of the above-identified Application. These attempts to contact Previous Counsel took the form of e-mails, voice messages, and letter. However, Previous Counsel failed to reply to any of the Petitioner's numerous attempts to contact him; indeed, to date, Previous Counsel has still failed to respond to all attempts to contact him. Given the lack of response from Previous Counsel, Petitioner contacted Petitioner's Present Counsel, Philip McKay of Gunnison, McKay & Hodgson, L.L.P., on or about October 11, 2007, herein referred to as "Present Counsel".

On or about October 11, 2007 Present Counsel recommended that Petitioner contact the Examiner directly, as the Inventor, to determine the status of the above-identified Application. On October 11, 2007 Petitioner contacted Examiner Stephen Johnson. It was during this October 11, 2007 discussion with Examiner Johnson that Petitioner was first made aware that the above-identified Application was abandoned for failure to respond to the November 14, 2006 Official Action.

Given the Petitioner's March 14, 2007 instructions to Previous Counsel to file the approved response to the November 14, 2006 Official Action, and the fact Petitioner had paid Previous Counsel to prepare and file the approved response to the November 14, 2006 Official Action, Petitioner was very surprised to discover on October 11, 2007 that the above-identified Application was abandoned for failure to respond to the November 14, 2006 Official Action.

Petitioner then requested Present Counsel take over the prosecution of the above-identified Application on October 12, 2007 and asked Present Counsel to review the case and make recommendations.

In response to Petitioner's request, Present Counsel obtained and reviewed the file wrapper for the above-identified Application and recommended Petitioner file this petition to revive the above named Application under 37 C.F.R. 1.137(b). In addition, a "Revocation and Substitution of Power of Attorney under 37 C.F.R. §1.36" was filed November 8, 2007, designating Present Counsel as the Attorney for Petitioner in this matter.

A significantly revised response to the November 14, 2006 Official Action was also prepared by Present Counsel and is co-filed herewith.

Conclusion

In light of the discussion above, and in accordance with 37 C.F.R. § 1.137(b)(3), Petitioner and Petitioner's Attorney state that the entire delay in filing the required reply to the Official Action from the due date for the required reply until the filing date of this grantable Petition pursuant to 37 C.F.R. § 1.137(b), was unintentional. Petitioner's Attorney further submits that the facts discussed above are provided in support of this statement in accordance with MPEP 711.03(c) (D) at page 700-213.

In addition, a response to the November 14, 2006 Official Action is co-filed herewith, as well as the petition fee set forth in 37 C.F.R. 1.17(m).

As shown above, Petitioner has met all the requirements set forth in 37 C.F.R. § 1.137(b) for reviving the above

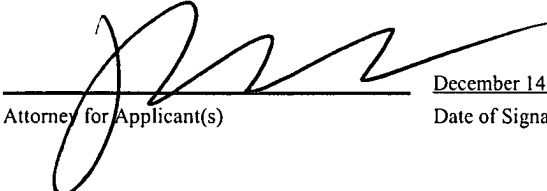
named Application that was unintentionally abandoned. Therefore, Petitioner respectfully requests: that the petition under 37 C.F.R. § 1.137(b) be granted; that the above named Application be revived; that the Amendment in response to the Official Action of November 14, 2006, co-filed herewith, be entered; and that Examination of the above named Application be resumed.

In addition, should the Commissioner determine that, in order to satisfy the requirement of 37 C.F.R. § 1.137(b), any additional fee is required, then the Commissioner is authorized to charge the appropriate funds to pay fee to Petitioners' Attorney's deposit account number 50-0553.

CERTIFICATE OF MAILING


I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450, on December 14, 2007

Respectfully submitted,



Attorney for Applicant(s)

December 14, 2007
Date of Signature


Philip McKay
Attorney for Applicant(s)
Reg. No. 38,966